

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 252/96

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E.P/M.A No. 210/96

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SECTION OFFICER (Judl.)

*Verdict*  
31/10/98

D

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

CASE NO. 252 /96.

Shri Dipak Dey & Ors.

Applicant(s)

- Versus -

U.O.I. & Ors.

Respondent(s)

Mr. B.K. Sharma,

Mr. B. Mehta & Mr. S. Sarma Advocate for the applicant(s)

Mr. S. Ali, Sr.C.G.S.C.

Advocate for the Respondent(s)

OFFICE NOTE	DATE.	Court's Orders.
<p>This application is in form and within time C. F. of Rs. 50/- deposited vide IPO/DD No. 11.44488 Dated ... 21/10/96</p> <p><i>Mr. S. Ali, Sr.C.G.S.C.</i> D. Registrar. 30/10/96. Am 30/10</p>	31.10.96.	<p>Learned counsel Mr. B.K. Sharma for the applicants. Learned Sr.C.G.S.C. Mr. S. Ali for the respondents. Heard Mr. B.K. Sharma for Admission. The applicants are all Seasonal Khalasi in the Central Water Commission, Meghna Division. They have prayed for permission to join together in this single application. Permission under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 to join in this application is granted to the applicants as the conditions mentioned therein are fulfilled.</p>

12.11.96  
Notice received  
in issue to the  
concerned parties  
vide D. No. A70621  
13.11.96

Service of Notice  
Lately sent to the  
parties concerned  
Date to photo copy  
Machine out of order.

Perused the contents of the application and the reliefs sought. Application is admitted. Issue notice on the respondents by registered post. Written statement within 6 weeks. List for written statement and further order on 16-12-96.

Mr. B.K. Sharma submits for an interim order. Mr. S. Ali opposes grant of interim relief to the applicants. Heard counsel of both sides. The applicants in

(2)

31-10-96 this application are similarly situated as those in C.A. No.224 of 1996. In M.P. No.157/96 (in O.A. 214/95) vide order dated 15-10-96 the respondents were directed to finalise the scheme mentioned therein within 3 months from 15-10-96 and, pending finalisation of such scheme, they were further directed not to terminate the services of the applicants without leave of this Tribunal but to take a sympathetic view and make genuine efforts to provide work to the applicants. The applicants in that M.P. are Seasonal Khalasis under the Central Water Commission. Therefore, in the present application also the respondents are directed not to terminate the services of the applicants without leave of this Tribunal.

10-1-97

1) Notice duly served on Respondant No-4, 1m  
6.

6  
Member 31.10.96

2) written statement 11.12.96  
has not been filed.

Vide order today in M.P.210/96  
the interim order dated 31.10.96  
has been modified.

BA  
10.1

Member

pg

18.12.96

None for the applicant. Mr S.Ali, Sr.C.G.S.C for the respondents seeks time upto 13.1.97. for submission of written statement.

List for written statement and further orders on 13.1.97.

6  
Member

pg

M  
19/12

OA/TA/CP/RA/MP No. of 19 O.A.No.252/96

OFFICE NOTE	DATE	ORDER
	15.1.97	Learned counsel Mr S. Sarma for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents. Written statement has been submitted. Copy of the same be served on the opposite party. The case is ready for hearing.
		List for hearing on 17.2.97. Rejoinder, if any, may be submitted before the date of hearing with copy to the counsel for the respondents.
		<i>6/2</i> Member
<u>16-1-97</u> 1) filed or behalf of Respts.	<u>nkm</u> <i>W 15/1</i>	
	17.2.97	Let this case be listed for hearing on 10.3.97 alongwith other similar matters.
		<i>6/2</i> Member
<u>19-2-97.</u> 1) Written Statement has been filed on respondents	<u>nkm</u> <i>W 20/2</i>	<i>6/2</i> Vice-Chairman
2) NO rejoinder has been filed.	10.3.97	Let the case be listed on 21.4.1997 for hearing.
3) NO appearance has been filed.		<i>6/2</i> Member
<i>W 19/2</i>		<i>6/2</i> Vice-Chairman
<u>6.3.97</u> 1) NO rejoinder has been filed.	<u>trd</u> <i>W 21/3</i>	
2) memo of appearance not yet filed.	21.4.97	Let the case be listed for hearing on 2.6.97.
<i>W 6/3</i>		<i>6/2</i> Member
<u>17-4-97</u> Ready for hearing	<u>pg</u> <i>W 27/4</i>	<i>6/2</i> Vice-Chairman

QA/TA/CP/RA/MP No. of 19

OFFICE NOTE

DATE

ORDER

2.6.97

The respondents have filed an affidavit in Misc. Petition No. 94/97 stating inter alia that the scheme has since been approved and it is likely to be notified. In view of the above Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant submits unless the scheme is notified and he comes to know about the scheme it will be difficult for <sup>him</sup> and for that purpose Mr. Sharma prays for time till the scheme is notified. Mr. M.K.Gupta, learned Addl. C.G.S.C. submits that the scheme will be notified very soon, may be within three weeks. Mr. S.Ali, learned Sr. C.G.S.C. and Mr. M.K.Gupta, learned Addl. C.G.S.C. also agreed that the matter should be heard after the publication of the scheme.

Considering the submissions of the learned counsel for the parties we adjourn the case till 7.7.1997.

60  
MemberSignature  
Vice-Chairman

pg

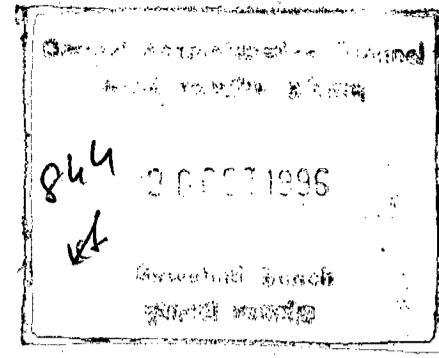
3/6

7.7.97

Heard both counsel of the parties. Hearing concluded. The application is disposed of on withdrawal with liberty to file fresh application if so advised. No order as to costs. Order is kept in separate sheets.

60  
MemberSignature  
Vice-Chairman

trd



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

(An application u/s 19 of the Administrative  
Tribunal Act, 1985)

Title of the Case : O. A. No. 252 of 1996.

Shri Dipak Dey & ors. ....Applicants.

Union of India & Ors. .... Respondents.

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For Use in Tribunal's Office.

Date of filing:- 30/10/96

Designation :-

Signature Sanjeev  
30/10/96

Registrar

Copy Received  
Mr. S. Al  
C. G.  
S. A.

7  
F/100 Subj  
Biswanath Dey  
30/10/96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

O.A. No. 252 196.

BETWEEN.

1. Dipak Dey
2. Ajay Kr. Das
3. Zia Uddin Mazumdar
4. Bizoy Kr. Singh
5. Nikhil Ch. Roy
6. Deba Chandra Singh
7. Msntu Kr, Bas
8. Sureble Haque Choudhury
9. Mehboob Alam Barlaskar.
10. Shambhu Roy
11. Palak Roy
12. Berendra Kr. Sinha
13. Nurul Amin Barbhuyan
14. Sudip Chakraborty
15. Sudhir Ch. Das.

All the applicants are working under Central Water Commission and their respective places of posting are reflected in Annexure-A to the OA.

..... APPLICANTS.

AND.

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. The Chairman, Central Water Commission,

Seva Bhawan, R.K. Puram, New Delhi.

3. The Executive Engineer, Meghna Division, CWC Silchar, Link Road, Silchar-6.
4. The Executive Engineer, Meghna Investigation Divn. Shillong, C.W.C. Younger Villa Motinagar, Shillong-14
5. The Asstt. Engineer, Meghna Sub-Division-III. C.W.C., 145 Panchyat Road, Silchar-4.
6. (A) The Asstt. Engineer Meghna Investigation Sub-Division-II, C.W.C. 145, Panchyat Road, Silchar-4.  
(B) The Asstt. Engineer Meghna Investigation Sub-Division-III. C.W.C. 145, Panchyat Road, Silchar-4.

DETAILS OF THE APPLICATION.

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION HAS BEEN MADE :-

The instant application is not made against any particular order, but has been made seeking a relief towards regularisation of their services. Presently they are under casual employment under the respondents and as per the scheme prevalent, they are entitled to be granted with temporary status with further regularisation of their services, along with seniority etc.

2. JURISDICTION OF THE TRIBUNAL:-

That the applicants declare that the subject matter of the application for which they want redressal is well

within the jurisdiction of this Hon'ble Tribunal.

**3. LIMITATION:-**

Applicants further declare that the application is within the limitation period prescribed under section 21 of the Administrative Tribunal Act, 1985.

**4. FACTS OF THE CASE:-**

4.1. That the applicants are all citizen of India and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India and the laws framed thereunder.

4.2. That the applicants have filed the instant application for redressal of their grievances towards non-regularisation of their services as Gr. 'D' employees. The grievances of the applicants and the cause of action for which the applicants have come before this Hon'ble Tribunal for redressal of the same are similar. They belong to lower stratum of the society and they are holders of Gr. 'D' posts on casual basis and accordingly Crave Leave of this Hon'ble Tribunal to allow them to join together in a Single application invoking the power under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3. That the applicants are all similarly situated, their grievances are regarding to regularisation of their services under the respondents. All the applicants

have been working under the respondents on casual basis for the last several years without any hope of regularisation of their services. they have not been granted temporary status under the Scheme formulated by the Govt. of India. The service particulars of the applicants are reflected in ANNEXURE-A to the instant O.A. In the said Annexure, the applicants have given their services particulars in details and crave leave of the Hon'ble Tribunal to refer to the same in support of their contention made in this application instead of repeating the said contention.

4.4. That the applicants state that, as is reflected in Annexure 'A' Statement annexed in this O.A., they have been working under the respondents since 1988, 1988, 1988, 1989, 1989, 1988, 1988, 1988, 1990, 1989, 1988, 1988, 1987 and 1986 respectively. they were so appointed in Gr.-D employment on casual basis after their names were sponsored through Employment Exchange and they were selected for the post of work-charged casual Khalasi. Their appointments are continuing from year to hear and each year they are issued with appointment letters under which they are to work in Gr. 'D' Posts as work charged seasonal Khalasi in the definite scale of pay. Personality, they are given pay scale of Rs. 750/- to 940/- which is the prescribed pay scale of Gr. 'D' employees. However, their services are terminated and/or they are kept in employment for a definite period and therefore, they are no longer engaged for the rest of the

period in the year. Again, in the next year, they <sup>are</sup> appointed for a further period. Thus, this process is going on since the time of their appointments and in spite of the fact that the Govt. of India has formulated a policy decision for grant of temporary status to the casual employees which, the applicants are still deprived of the same benefit. their services are rather being terminated from time to time.

4.5. That the applicants state that every year they are issued with the same kind of appointment letters and sometimes they are also required to work beyond the prescribed period in the appointment letter on casual basis.

Their such appointments are not in dispute and thus instead of annexing all the appointments letters pertaining to their services, the applicants beg to annexed one such of their appointments letters and the same are annexed as Annexure -B.

The applicants crave Leave of the Hon'ble Tribunal to produce all the appointment letters pertaining to their employments in Gr. 'D' posts as Casual Basis right from the respective date of their appointment at the time of hearing of the instant application. It is the bona fide belief of the applicants that their such employments will not be disputed by the respondents.

4.6. That the applicants state that even after

rendering years of service as Gr. 'D' casual employees, their service have not been regularised and their services are being taken by the respondents in exploitative terms. As pointed out above, their services are utilised for a particular period in a year and after that, their services are terminated and again in the next year they are appointed for another period. this process has been going on since the days of their respective employments. Further, sometime during the intervening period they are also given casual employment like that of any other Gr. 'D' Casual employee. Thus, the case of the applicants stand that all of them are duly sponsored by the Employment Exchange and selected by the respondents for being appointed as casual and selected by the respondents for being appointed as Casual Gr. 'D' employees, their services are being utilised every year for a particular period as work charged season khalasi. till date their services are not regularised and they have not been conferred with temporary status as is required to be conferred to under the relevant scheme formulated by the govt. of India.

That the applicants Crave Leave of this Hon'ble Tribunal to produce a copy of the relevant scheme at the time of hearing of this instant O.A.

4.7: That the applicants state that some of the Gr. 'D' employees of the Central Water Commission similarly

situated ~~at~~ with that of the applicants had approached the Principal Bench of this Hon'ble Tribunal, New Delhi by way of filing various O.A.s wherein ~~some~~ kind of grievances have been raised as in the instant case were raised. the Principal Bench of this Hon'ble <sup>Tribunal &</sup> ~~Court~~ by its common judgment dt. 10.2.94 in O.A. No. 273/92, 804/92, 1601/92 and 2418/92 allowed the said O.As. with the following directions (i)

"(i) The respondents shall produce a scheme for retention and regularisation of the casual labour employed by them. This scheme should take into account the regular post, that can be created taking into account of the fact that even if a particular scheme is completed, new scheme are launched every year and assessment of regular post that can be created on the basis should be made for regularisation all those who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of their services.

ii) Those who have completed 120 days of services should be given temporary status in accordance with the instructions issued by the department of Personnel from time to time. after completion of required period of service, they should be considered for regularisation.

iii) Adhoc/temporary employees should not be replaced by other adhoc/temporary employees and should be retain in reference to their juniors and outsiders.

iv) Such a scheme shall be submitted by respondents for scrutiny of this Hon'ble Tribunal within a period of 3 months from the date of communication of this order by the petitioner to them.

"There shall be no order as to costs"

A copy of the said judgment is annexed herewith and marked as Annexure-3.

4.8. That the applicants state that the said judgment was carried on review by the respondents therein but the same was dismissed by the Hon'ble Tribunal by its order and judgment dated 9.5.94.

A copy of the same judgment dated 9.5.94 is annexed herewith and marked as Annexure-4.

4.9. That pursuant to the said judgments the applicants therein have been granted temporary status and to the knowledge of the applicants, all the applicants therein have been continuing in their service without any interruption and break and they are enjoying the consequence of granting the temporary status. One of the applicant transferred to Shillong and he has been continuing as Gr. 'D' employees on conferment of temporary status with all consequential benefits. After the aforesaid judgment, there has been no occasion to terminate the services of the applicants

therein and they are enjoying the benefit of temporary status as per the scheme holding the field. The Central Water Commission has formulated and adopted the scheme as was formulated by the govt. of India, Ministry of Personnel & Public Grievances with a slight modification here and there, more particularly as regard to the number of working days. the respondents may directed to produce a copy of the same formulated by them under which the applicants are entitled to be conferred with temporary status with all consequential benefits.

4.10. That the applicants state that the respondents instead of being a model employer has envisages under the Constitution of India and laws framed thereunder have been utilising the services of the applicants for the last several years in exploitative terms without giving them any ray of hope of future prospectus, thus the applicants have attained a stage under which they can neither go for other employment nor they can abandon their present employment. the applicants have already become over aged for any other government job. Thus with the meagre income they earn their livelihood from their casual employment, they along-with their families are in precarious predicament.

4.11. That the applicants state that in view of the aforesaid judgment of the Principal Bench, pertaining to the said Department and same subject matter of employment

for Gr.'D' employees, there is no earthly reason as to why the benefit of the said judgment should not extended to the present applicants. The respondents of their own ought to have extended the benefit of the said judgment to the applicants instead of making them to come under the protective hands of the ~~the~~ Tribunal.

4.12. That the applicants state that in view of the facts and circumstances stated above they are compelled to come under the protective hands of this Hon'ble Tribunal again. Further it is stated that by the petitioners that the respondents have acted illegally and have acted in direct confrontation with the Hon'ble Tribunals order.

4.16. That the applicants state that some of the similarly situated persons belonging to Middle Brahmaputra Division and other divisions has already approached this Hon'ble Tribunal and this Hon'ble Tribunal by its various orders has protected their services.

One of such copy of order dtd. 15.10.96 is annexed herewith and marked as Annexure-E.

4.17. That the applicants state that it is their reasonable apprehension that since they have come under the protective hands of this Hon'ble Tribunal, their service may not be continued and thus it is fit case for an interim order directing the respondents not to terminate the

services of the applicants till disposal of this instant O.A. It is further stated that by the applicants that the respondents have undertaken several other project works and there are post still lying vacant in the Department and hence therein no earthly reason as to why the services of the applicant should not be continued. Again on the other hand the respondents have undertaken to prepare scheme to absorb the casual labour like that of the applicants, the applicants pray before this Hon'ble Tribunal further to pass appropriate interim order directing the respondents to allow the applicants in any Gr. 'D' posts.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :-

5.1 For that *prima facie* the action/inaction on the part of the respondents are illegal and arbitrary.

5.2 For that the applicants have been continued in the employment under the respondents for the last several years, their services are required to be regularised with all consequential benefits.

5.3 For that there being a judgement holding the file pertaining to the same department and the same subject matter, the Departments and the respondents are duty bound to apply the principles laid down therein case of applicants also without requiring them to approach the Hon'ble Tribunal again and again.

5.4 For that the constitutional mandate demands that the services of the applicants be regularised and their services could not be utilised in exploitative terms as has been done by the respondents in the instant case.

5.5 For that the benefit of the scheme of regularisation and conferment of temporary status have not been extended to the other similarly situated employees. There is no earthly reasons as to why the same treatment should not be meted out to the applicants.

5.6 For that the applicants have been created differently and thus <sup>it</sup> is violation of article 14 and 16 of the constitution of India.

5.7 For that the applicants have been ~~constituted~~ continued under the respondents for the last several years and in the process they have lost their chances of employment elsewhere as they being over aged to be absorbed elsewhere.

5.8 For that the respondents are duty bound to give weightage to the services rendered by the applicants towards regularisation of the applicants services and they cannot be utilised the same in exploitative terms in violation of provision mandate and ~~and~~ the laws framed thereunder.

6. DETAILS OF REMEDIES EXHAUSTED

That the applicants state that they have no other alternative and a efficacious remedies except by way of approaching this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT.

That the applicants further declare that they have not previously filed any application, writ petition or suits regarding the subject matter in respect of which the application has been made before any court of law, or any other authority and/or other Benches of this Hon'ble Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

In view of the facts and circumstances stated above, it is most respectfully prayed that the instant application be admitted records be called for and on perusal of the same and upon hearing the parties on the cause or causes that may be shown be pleased to grant the following ~~reliefs~~.

- 8.1 To direct the respondents to regularise the ~~akk~~ services of the applicants with retrospective effect i.e., the respective dates of their appointments with all consequential benefits including arrear salary and seniority.
- 8.2 To direct the respondents to extend the benefits of Annexure-3 judgement and order of the Principal Bench of the Hon'ble C.A.T. New Delhi.
- 8.3 To direct the respondents not to terminate the service of the applicants and to allow them to continue in their services ~~is~~ through out the year till such time their services are regularised.
- 8.4 The cost of the application.

Any other relief or reliefs to which the Hon'ble Tribunal deem fit and proper.

9. INTERIM ORDER PRAYED FOR

Under the facts and circumstances stated above the applicants prayed for an interim order directing the respondents not to terminate the services of the applicants with further direction to allow them to continue in their services without any interruption.

10. The application has been filed through advocate.

11. Particulars of the I.P.O.

I.P.O. No. 1144488

Date- 3-10-96

Payable at :- G.P.O., Guwahati.

12. LIST OF ENCLOSURES :-

As stated in the INDEX.

Verification .....

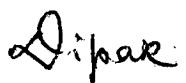


V E R I F I C A T I O N.

I, Shri Dipak Kr. Dey, son of D.K. Dey, aged about 32 years, at present working as Personal khalasi C.W.C., Division-III Meghna Sub-Division, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 of the accompanying application are true to my knowledge and those made in paragraphs 5 are true to my legal advice and have not suppressed any material facts.

And I am the applicant No. 1 of the instant O.A. and as such I am competent to swear this Verification which I signed on this the 30<sup>th</sup> day of Oct. , 1996.

  
Signature of the applicant.

 Dipak  Dey

16  
22  
ANNEXURE - A

Particulars of the Applicants:-

S NO	NAME	AGE	PLACE OF WORK	WORKING SINCE	NOS <sup>2</sup> OF DAYS WORKED.
1.	Dipak Dey	32 yrs	0/0 E.E Meghna Divn. CWC Silchar Divn. under. Asstt Engn. Meghna Sub Divn.III Silchar-4.	12-7-88	88'-96 days 89'-154 do 90'-217 do 91'-300 do 92'-209 do 93'-357 do 94'-302 do 95'-170 do 96'-153 till date
2.	Ajay Kr. Das.	27 yrs	-do-	11-7-88	88'-97 days 89'-154 do 90'-170 do 91'-170 do 92'-169 do 93'-170 do 94'-170 do 95'-170 do 96'-253 till date
3.	Zia-Uddin Mazumdar.	28 yrs	-do-	12-7-88	88'-126 days 89'-154 do 90'-170 do 91'-170 do 92'-170 do 93'-168 do 94'-170 do 95'-170 do 96'-153 till date
4.	Bigoy Kr. Singh	28 yrs	0/0 Meghna Investigation Divn. Silchar.under Asstt.Engin. Meghna Investi- gation Sub-Divn.II Silchar.	15.5.89	89'-170 days 90'-170 do 91'-170 do 92'-169 do 93'-170 do 94'-170 do 95'-170 do 96'-153 till date
5.	Nikhil Ch.Roy.	34 yrs	-do-	15-5-89	89' to 95' (15th May to 15th Oct.) 96' :- 2nd JUN to till date.

Arrested.  
Arrester.

Contd...p/2.

S.NO	NAME	AGE	PLACE OF WORK	WORKING SINCE	NOS. OF DAYS WORKED
6.	Deba Chandra Sinha.	35 yrs	-do-	13-6-88	88'-140 days. 89'-349 do 90'-169 do 91'-169 do 92'-169 do 93'-169 do 94'-169 do 95'-169 do 96'- 2nd Jun to till date.
7.	Mantu Kr. Das	29 yrs	-do-	13-6-88	88'-226 days 89'-250 do 90'-170 do 91'-170 do 92'-170 do 93'-170 do 94'-170 do 95'-170 do 96'-149 till 31s Oct 96'
8.	Sureble Haque Choudhury	38 yrs	-do-	28-5-88	88'-126 days 89'-147 do 90'-170 do 91'-170 do 92'-170 do 93'-170 do 94'-170 do 95'-170 do 96'-168 till 31s Oct, 96'
9.	Mehboob Alam Barlaskar.	27 yrs	-do-	10-10-90	90'-21 days 91'-169 do 92'-169 do 93'-169 do 94'-169 do 95'-169 do 96'-153 days till 31 st Oct. 1996.
10.	Shambhu Roy	33 yrs	Under Asstt. Engn. Meghana Investigation. Sub- Divn. III.	1-1-89	89'-150 days 90'-123 do 91'-165 do 92'-170 do 93'-170 do 94'-170 do 95'-170 do 96'-153 till 31 st Oct 1996.

Attested.  
Advocate.

## Book -3-

ANNEXURE-A contd.

S N.O.	NAME	AGE	PLACE OF WORK	WORKING SINCE	NOS OF DAYS WORKED.
11.	Palak Roy.	27 yrs.	-do-	13-6-88	88'-141 days. 89'-219 -do. 90'-170 -do. 91'-170 -do. 92'-170 -do. 93'-170 -do. 94'-168 -do. 95'-170 -do. 96'-158 -do. till date-
12.	Birendra Kr. Sinha.	37 yrs.	do-	15.5.88	88'-184 days 89'-219 -do. 90'-209 -do. 91'-209 -do. 92'-209 -do. 93'-209 -do. 94'-209 -do. 95'-209 -do. 96'-209 -do. till date
13.	Nurul Amin Bar-	30 yrs.	-do-	20.7.87	87' to <del>95'</del> 96' (15th May to 31 st Oct. each year.)
14.	Sudip Chakroborty.	31 yrs.	-do-	25.6.86	86'-103 days 87'-197 -do. 88'-230 -do. 89'-196 -do. 90'-170 -do. 91'-170 -do. 92'-170 -do. 93'-170 -do. 94'-170 -do. 95'-170 -do. 968-153 -do. till date.
15.	Sudhir Ch. Das.	33 yrs.	-do-	15.5.89	89'-170 days. 90'-170 -do. 91'-170 -do. 92'-170 -do. 93'-170 -do. 94'-170 -do. 95'-170 -do. 96'-148 -do. till date.

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Arrested.  
Advocate.

GOVERNMENT OF BENGAL  
CENTRAL WATER COMMISSION  
MEGHNA DIVISION  
LINK ROAD, SILCHAR

MD/SIL/Seasonal-96/Camp SHS/12-12  
Dated Silchar, the 08/5/96

OFFICE ORDER

The following individuals are hereby appointed on purely temporary basis as seasonal Khalasis on a basic pay of Rs.750/- per month plus other allowances as admissible with effect from the dates of their actual joining the sites mentioned against each.

The appointment will terminate on 31/10/96 A.N. Their services may be terminated earlier to 31/10/96 also without mentioning any reason thereof. The appointment will not carry any right for permanent employment. In case he/she is willing to accept this order, he/she should send his/her willingness within 15(fifteen) days from the date of issue of this order to the office of the undersigned. They should report for duty immediately within 20 days. If he/she fails to join within the stipulated period, the offer of appointment will be automatically treated as cancelled without further estimation and his/her name will be struck from the existing and future priority lists of Seasonal Khalasis. No correspondence will be entertained.

Other terms and conditions of service will be governed by relevant rules/orders enforced from time to time.

No TA/DA is allowed for joining the place of postings.

The appointee should before joining the post produce a Certificate of Medical Fitness from the concerned Civil Surgeon/District Medical & Health Officer.

No.	Name of Seasonal Khalasi	Place of posting	Under which Sub-Division
01	Sri Ajit Sarkar	Haora site	Meghna Sub-Division No. I, CWC, Agartala
02	Sri Debasis Bhattacharjee	-do-	-do-
03	Sri Sankar Dhar	Gajeria site	-do-
04	Sri Montosh DebNath	-do-	-do-
05	Sri Manik Karmakar	Sonamura site	-do-
06	Sri Bhobotosh Mazumdar	-do-	-do-
07	Sri Pradip Roy	Belonai site	-do-
08	Sri Manoj Kar	-do-	-do-
09	Sri Sunil Chandra Das	Khowai site	-do-
10	Sri Babul Sen	-do-	-do-

contd...2

Attest'd.  
Advocate.

Jyoti kr. das.

11.	Sri Sumanta Bhattacharjee	Nutanbikar site	Meghna Sub-Division No.II, CWC, Dharm Nagar
12.	Sri Achujut Bhattacharjee	-do-	-do-
13.	Sri Nikhil Baidya	Kailashahan site	-do-
14.	Sri Jadish Malakar	-do-	-do-
15.	Sri Pradip Nath	Kamalpur site	-do-
16.	Sri Subash Dutta	-do-	-do-
17.	Sri Dilip Das	Kumarghat site	-do-
18.	Sri Nepal Malakar	-do-	-do-
19.	Sri Ajoy Kumar Das	Tularogram site	Meghna Sub-Division No. III, CWC, Silchar
20.	Sri Dipak Dey	-do-	-do-
21.	Sri Ramendra Kumar Nath	Anipur site	-do-
22.	Sri Uttam DebNath	-do-	-do-
23.	Sri Loknath Sen	Santiniketan site	-do-
24.	Sri Satyendra Ch. Das	-do-	-do-
25.	Sri Ziauddin Mazumdar	Tuinal site	-do-
26.	Sri Sunil Sarkar	-do-	-do-
27.	Sri Kumud Behari Das	-do-	-do-
28.	Sri Arunjit Deb	Monierthal site	-do-
29.	Sri Netai Chakraborty	-do-	-do-

( F.M. SCOTT )  
EXECUTIVE ENGINEER

11. The Assistant Engineer, Meghna, Sub - Division. No. I/II/III Central Water Commission, Agartala/Dharmapuri/Chittagong for information and necessary action. The joining report of the Seasonal Khalsis may be sent this office in due course.

2. "The Site In-charge" for information and necessary action.

3. The Accounts Branch, Meghna Division, Central Water Commission, Silghat, for information and necessary action.

4. Who is Person concerned?

( P.M. SCOTT )  
EXECUTIVE ENGINEER

GOVERNMENT OF INDIA  
 CENTRAL WATER COMMISSION  
 MEGHNA INVESTIGATION DIVISION  
 "YINGYAR VILLA" LUMPYNGNGBAD  
 SHILLONG- 793014

No. MID/W-17011/30/95/VOL-IX/96/ 1925-49 Dated Shillong the 25-5-96

## OFFICE ORDER

The following individuals are hereby appointed on purely temporary basis as seasonal Khalasis on a basic pay of Rs.750/- per month plus other allowances as admissible with effect from the dates of their actual joining at the sites mentioned against each.

The appointment will terminate on 31/10/96 A.D. Their services may be terminated earlier to 31/10/96 also without assigning any reason thereof. This appointment will not carry any right for permanent employment. In case he/she is willing to accept this order, he/she should send his/her willingness within 15(fifteen)days from the date of issue of this order to the office of the undersigned. They should report for duty immediately within 20 days. If he/she fails to join within the stipulated period, the offer of appointment will be automatically treated as cancelled without further intimation and his/her name will be struck from the existing and future seniority lists of Seasonal Khalasis. No correspondence will be entertained.

Other terms and conditions of service will be governed by relevant rules/orders enforced from time to time.

No TA/DA is allowed for joining the place of postings.

The appointee should before joining the post produce a Certificate of Medical Fitness from the concerned Civil Surgeon/District Medical and Health officer.

Sl. No.	Name of Seasonal Khalasi	Place of posting	Under which Sub-Division
01	Sri D.C.Marak	Sibbari site of Meghna Investigation Sub-Division-I, Shillong.	
02	Sri Sankar Sharma	-do-	-do-
03	Sri Jagdish Roy	Dimapara site	-do-
04	Sri Bimal Roy	Therriaghata site	-do-
05	Sri Sailindar Roy	-do-	-do-
06	Sri Jaikushan Singh	Kharkhana site	-do-
07	Sri S.H.Choudhury	Badarpurghat site Meghna Investigation Sub-Division-II Silchar	
08	Sri M.A.Barlaskar	-do-	-do-
09	Sri Sampa Rani Roy	Fulertala site	-do-
10	Sri Nikhil Chandra Roy	-do-	-do-

contd..2/

11	Sri Bijay Kumar Singha	Jhakrabor site	Meghna Investigable Sub-Division-II Silchar
12	Sri Deba Chandra Singha	-do-	-do-
13	Sri Ajin Rongmai	Makru site	-do-
14	Sri Mantu Chandra Das	-do-	-do-
15	Sri Babul Singh Chetri	A.P.Ghat site	Meghna Investigative Sub-Division-III Silchar
16	Sri Sudip Chakraborty	-do-	-do-
17	Sri Birendra Kumar Singha	Dholai site	-do-
18	Sri Pulak Roy	-do-	-do-
19	Sri Sudhir Chandra Das	Matijuri site	-do-
20	Sri Sambhu Roy	-do-	-do-
21	Sri Narul Amin Barbhuiya	Fakira Bazar site	-do-

( P.M.SCOTT )  
EXECUTIVE ENGINEER

Copy to :

1. The Assistant Engineer, Meghna Investigation Sub-Division-I/II/III Central Water Commission, Shillong/Silchar for information and necessary action. The joining report of the Seasonal Khalasis may be sent to this office in due course.
2. The Site In-charge for information and necessary action.
3. The Accounts Branch, Meghna Investigation Division, Central Water Commission, Shillong for information and necessary action.
4. Person concerned.

( P.M.SCOTT )  
EXECUTIVE ENGINEER

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

O.A. No. 223, 884, 1601, 2246 & 2410 of 1992

New Delhi, this the 10th day of February, 1994.

HON'BLE MR JUSTICE S.K.DHAI, VICE CHAIRMAN

HON'BLE MR D.R.DHONDUYAL, MEMBER (A).

O.A. No. 223 of 1992

1. Vinod Kumar  
S/O Shri Raman Singh  
R/O F-25, Trans Et Camp,  
Khilchari Pura,  
Delhi.
2. Ram Kumar  
S/O Shri Ratan Singh,  
R-139, X - Block-II,  
New Roshan Pura, Najafgarh,  
New Delhi.
3. Yash Pal Singh  
S/O Shri Devi Singh,  
H-288, Vill. 3, P. O. Narolna,  
New Delhi.
4. Parmod Kumar  
S/O Shri Bansi Singh  
No. 421, Sewa Nagar,  
New Delhi.
5. Narendra Paswan,  
B-50, Nahanpur, Sector 7,  
Rohini, Delhi.

... . . . . Applicants.  
(through S.N. Shakla, Advocate).

O.A. No. 884/1992

1. Sewak Ram,  
S/O Shri Mark Ram  
R/O G-195, Sector 10,  
Faridabad (Haryana).
2. Suresh Kumar  
S/O Shri Om Parkash  
R/O Village Sidipur Lora  
P. O. Bahadur Garhi,  
District Rohtak (Haryana).
3. Nand Kumar  
S/O Shri Vishal Chand  
R/O S 27/B-203, Railway Colony,  
Gughlakabad,  
New Delhi.

... . . . . Applicants.  
(through S.N. Shakla, Advocate).

vs.

1. The Chairman, Central Water Commission,  
Govt. of India, Ministry of Water Resources,  
Sewa Bhawan, Sector 1, R.K.Nagar, New Delhi.

Attest  
Advocate

9.1 The Executive Engineer (C.S.D.),  
Central Stores Division,  
Central Water Commission,  
West Block No.1, Ring No.4,  
2nd Floor, R.K. Puram, New Delhi ..... Respondents  
(In both above O.A.s.)

(through Mr. Jog Singh, Advocate).

O.A. No. 1601 of 1992

Siri Rajesh Kumar Saini  
s/o Siri Veer Sain Saini  
Deputy Chargeable Khilasi  
Under Executive Engineer  
Central Stores Division  
Central Water Commission  
West Block No.1, Ring No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

... . . . . Applicant.

(through B.S. Mainee, Advocate).

O.A. No. 2245 of 1992

Shri Jayant Kumar Pathak,  
S/O Siri Kusheshwar Pathak,  
Assistant Electrician,  
Central Stores Divn., Central  
Water Commission, West Block 1,  
Ring No.4, 2nd Floor, R.K. Puram  
New Delhi.

... . . . . Applicant.

(through B.S. Mainee, Advocate).

O.A. 2418 of 1992

1. Siri Rajender Sharma  
S/O Siri Bhagwan Sharma  
Carpenter, Central Stores Divn.,  
Central Water Commission,  
West Block No.1, Ring No.4,  
2nd Floor, R.K. Puram,  
New Delhi.
2. Siri Raju Kashyap, S/O  
Siri Nikka Ram;
3. Siri Daya Ram S/O Ganga Ram.
4. Siri Dali Singh S/O Bhup Singh.
5. Siri Giri Raj S/O Mishri Singh
6. Siri Bijendra S/O Totu Ram.
7. Siri Ram Kumar Rai S/O Hardev Rai.
8. Siri Udai Kumar S/O Sh. Kurukul.

Applicants 2 to 8 working in Central Stores Divn.,  
Central Water Commission, R.K. Puram, New Delhi.

..... Applicants.

(through B.S. Mainee, Advocate).

vs.

1. The Secretary, Ministry of Water Resources  
Sri Ram Shakti Bhawan, New Delhi.
2. The Chairman, Central Water Commission  
Sri Ram Bhawan, R.K. Puram, New Delhi.
3. The Executive Engineer, Central Stores Divn.,  
Central Water Commission, R.K. Puram, New Delhi.

..... Respondents  
(In all three above O.A.s  
through Mr. Jog Singh in O.A. No. 1601 and 2245 of 1992 and  
through Mr. P.P. Khurana in O.A. No. 2418 of 1992).

Attest.

Advocate.

- 23  
- 1-3-1ORDERB.N.DHONDIYAL, MEMBER (AL)

The applicants, in all the above-mentioned O.A.s have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K.Puram, New Delhi. One of them, Shri Jayant Kumar Pathak, was engaged as Casual Labourer on 2.1.1987 but claims to have been working against the post of regular electrician w.e.f. 7.12.1987. The date of engagement of the applicants ranges between 1.10.1982 to 5.9.1988 in case of O.A.No.223/92, between 15.4.1986 to 26.10.1987 in case of O.A.No.884/92, between 6.1.1987 to 7.9.1990 in case of O.A.No.2418/92. Shri Rajesh Kumar Saini (applicant in O.A.No.1501/92) was engaged on 19.2.1988 and Shri Jayant Kumar Pathak (applicant in O.A.No.2246/92) was engaged on 2.1.1987. In some of the O.A.s, prayer has been made for issuance of a direction to the respondents to prepare a scheme on rational basis for absorption of Casual Labourers and for not disengaging the applicants till such a Scheme is prepared. In all the cases, interim orders were passed by this Tribunal, restraining the respondents from terminating the services of all the applicants. They are continuing till date.

2. In the counter filed by the respondents, the main averments are these. The appointments were made for specific projects and in the appointment orders, it was clearly mentioned that these are purely on ad hoc basis and will not lead to any claim for any permanent employment. They have worked in broken periods and many of them have not completed 240 days of service in two consecutive years. The rules

Appealed  
Advocate

provide for appointment of Khalasis by direct recruitment through selection by a selection committee of which the Executive Engineer is the Chairman. The posts of Casual Khalasis etc. are provided in the working estimates for a definite period and the services of these workers are terminated after that period. In case of Jayant Kumar Pathak (C.A.No.2246/92), it has been stated that the applicant was appointed as an adhoc work-charged Khalasi from 3.8.1987 and later on he was offered appointment as Assistant Electrician on ad hoc basis at minimum fixed basic pay of Rs.1100/- However, this appointment was for a specific period, though with breaks, the applicant continued to work against vacancies in different works. They have, however, admitted that during the years 1989 to 1991, he worked for more than 240 days in all the three years.

3. We have gone through the records of the case and heard the learned counsel for the parties.

Sir B.S. Mainee, learned counsel for the applicants has drawn our attention to the following observations made by the Hon'ble Supreme Court in case of State of Haryana and others vs. Pura Singh and others, 1992(3) Vol.45 S.C.R.34:

"The proper course would be that each State prepares a scheme, if one is not already in vogue, for regularisation of such employees, consistent with its reservation policy and if a scheme is already framed, the same may be made, consistent with our observations herein so as to reduce avoidable litigation in this behalf. If and when such person is regularised he should be placed immediately below the last regularly appointed employee in that category, class or service, as the case may be.

So far as the work-charged employees and casual labour are concerned, the effort must

Attested  
Approved

-3-

be to regularise them as far as possible and as clearly as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labourer is continued for a fairly long spell - say two or three years - a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the concerned authority to examine the feasibility of his regularization.

While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person....."

4. As the applicants have been working for a long period, through intermittently, their cases have to be considered in light of the above observations of the Hon'ble Supreme Court as also directions issued by the Government from time to time. It may be noted that in accordance with these directions, a special Scheme for regularization of the Casual Labourers have been prepared by the Railways, Post and Telegraphs and other Departments. In the circumstances of this case, we dispose of these applications, with the following directions:

(i) the respondents shall prepare a scheme for retention and regularization of the Casual Labourers employed by them. This scheme should take into account the regular posts, that can be created, taking into account the fact that even if a particular scheme is completed, new schemes are launched every year. An assessment of the regular posts that can be created on this basis should be made. For regularization, all those, who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of service;

AN

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RECORDED

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- 6 -

(11) Those, who have completed 120 days of service should be given temporary status in accordance with the instructions issued by the department of personnel from time to time. After completion of the required period of service, they should be considered for regularisation:

(iii) Ad hoc/temporary employees should not be replaced by other ad hoc/temporary employees and should be retained in preference to their juniors and outsiders.

(iv) Such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

5. There shall be no order as to costs.

( B.N.Dhondiyal )  
Member(A)

( S.K.Dhaon )  
Vice Chairman

As it is, <sup>it</sup> is

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ANNEXURE D  
32

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

To  
The Registrar  
Central Administrative Tribunal,  
Principal Bench,  
New Delhi.

Dt. 30/5/94

1. Sh. Jag Singh  
counsel for the applicant In RA  
1108, Prakash Deep, 7, Tolestan Marg,  
New Delhi.

versus

2. Sh. Rajender Sharma, Carpenter Central  
Stores Divi., Central Water Commission  
West Block No 1, Wing No 4, 2nd Floor,  
R.K.Puram, New Delhi.

3. Raju Kashyap S/o Sh. Nikka Ram

4. Sh. Daya Ram S/o Sh. Banga Ram

5. Sh. Dali Singh S/o Sh. Bhup Singh

6. Sh. Kiri Ram S/o Sh. Mihari Singh

7. Sh. Bijendra S/o Sh. Tota Ram

(Serial No. 2 To 6 working in Central Stores  
Divi. Central Water Commission, R.K. Puram,  
New Delhi.)

Govt. Min. Water Resources  
Applicants

RA 172/94 in  
U.A. No. 2418/92

VS  
Rajender Sharma & Ors.

Respondents

I am directed to forward herewith a copy of Judgment/Order dt.  
9/5/94 passed by this Tribunal in the above mentioned case  
for information and necessary action, if any.

Attest.  
Advocate

Yours faithfully,  
GJS  
SECTION OFFICER (J-II)

Administrative Tribunal  
Delhi, New Delhi.

RA-165/94 in RA-2246/92, RA-171/94 in OA-1001/92  
and RA-172/94 in OA-2418/92.

New Delhi the 27th Day of May, 1994.

Hon'ble Mr. Justice S.K. Dhasen, Vice-Chairman (C)  
Hon'ble Mr. B.N. Ondiyal, Member (A)

RA-165/94 in RA-2246/92 RA-171/94 in OA-1001/92 &  
RA-172/94 in OA-2418/92.

1. The Secretary,  
Ministry of Water Resources,  
Bhawan Shakti Bhawan,  
New Delhi.

2. The Chairman,  
Central Water Commission,  
Susa Bhawan, R.K. Puram,  
New Delhi.

3. The Executive Engineer,  
Central Stores Divn.,  
Central Water Commission,  
R.K. Puram, New Delhi.

Respondee /  
Applicant in OA.

(through Sh. Dny. Singh)

RA-165/94 in RA-2246/92 v/s

Shri Jayant Kumar Pathak,  
S/o Sh. Kishor Pathak,  
Assistant Electrician,  
Central Stores Divn.,  
Central Water Commission,  
West Block 1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

Respondent in RA/  
Applicant in OA.

RA-171/94 in OA-1001/92

Shri Rajesh Kumar Saini,  
S/o Shri Veer Sain Saini,  
Workcharge Khilasi,  
under Executive Engg.,  
Central Stores Division,  
Central Water Commission  
West Block No.1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

Respondent in RA/  
Applicant in OA

RA-172/94 in OA-2418/92

1. Shri Jagender Sharma,  
S/o S. K. Sharma,  
Controller, Central Stores Divn.,  
Central Water Commission,  
West Block No.1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

Attested  
Advocate

2. Sh. Raju Kshyam,  
S/o Shri Nikka Ram.
3. Sh. Daya Ram,  
S/o Sh. Ganga Ram.
4. Shri Dali Singh,  
S/o Sh. Bhup Singh.
5. Shri Giri Raj,  
S/o Shri Mishri Singh.
6. Shri Bijendra,  
S/o Sh. Tata Ram.
7. Sh. Ram KURUKUL  
S/o Sh. HANUM RAI.
8. Sh. Uday Kumar,  
S/o Shri Kurukul.

Respondents in RA/  
Applicants in OA.

(Serial No. 2 to 6 working in Central Stores  
Divn., Central Water Commission, R.K. Puram,  
New Delhi.)

ORDER (BY CIRCULATION)  
delivered by Hon'ble Mr. B.N. Dhoondiyal, Member (A)

These various applications have been filed  
by the respondents against the court judgment passed  
on 10.02.94 in C.A. Nos. 223, 884, 1601, 2240 & 2418 of  
1992. The following directions were given:-

- (i) The respondents shall prepare a scheme  
for retention and regularisation of the  
Casual Labourers employed by them. This  
scheme should take into account the regular  
posts, that can be created, taking into  
account the fact that even if a particular  
scheme is completed, new schemes are launched  
every year. An assessment of the regular  
posts, that can be created on this basis  
should be made. For regularisation, all  
those, who have completed 240 days service  
in two consecutive years, should be given  
priority in accordance with their length  
of service;
- (ii) Those, who have complete 120 days of service  
should be given temporary status in accord-  
ance with the instructions issued by the  
Department of Personnel from time to time.  
After completion of the required period of  
service, they should be considered for  
regularisation;

*Adm. No.*  
Bites ed.

- 2 -

(iii) adhoc/temporary employees should not be replaced by other ad hoc/temporary employees and should be retained in preference to their juniors and outsiders;

(iv) Such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

The review applicants claim that though the impugned order is very much legal and has been passed after giving considerable thought, it would result in retention of junior people while rendering the senior people surplus. It is their contention that due to financial constraints and completion of works in hand W/C staff under different categories from both Central Stores Division as well as Planning Division are likely to be rendered surplus after 31.3.1994. It has also been mentioned that the Ministry of Finance has emphasised surrender of 10% of existing post under W/C Estt. also for declaring 10% post on W/C establishment. They have stated that due to financial constraints and lack of schemes, the applicants were not entitled for any regularisation of their services.

There is nothing in these directions which forces the review applicants to regularise casual workers in the absence of any post. They can take into account the latest position regarding the projects which are continuing and reach the conclusion that no more regular post can be created. The second direction only relates to implementation of the decision of the Deptt. of Personnel regarding temporary status being given to casual workers who have worked for 120 days. Certainly, it cannot be accepted that the applicants will not implement their own orders. The direction No. 3 is based on a well

*Ames. Ed.*  
S. Advocate

established principles.

We, therefore, hold that no error apparent on the face of judgement has been brought out in the review applications, which are hereby dismissed. It is reitnated that a scheme prepared in the light of these directions, shall be presented for scrutiny to this Bureau within the stipulated time.

Let a copy of this order be placed on all the three files.

(S. N. DUMALAIVIL)  
MEMBER (1)

(S. K. SARKAR)  
VICE-CHIEF

1/11/

Original copy  
S. K. SARKAR

Addressed copy  
S. K. SARKAR

File copy

C. C. S. O.

C. A. T. P. B.

Mr. Dikhi

Copy to

Section Officer  
10/10/1936

Recd. 10/10/1936

Reopened

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUNNAHATI BENCH (GUNNAHATI 3)**

O.A. NO. 224/86 - 1

Sri P.C.Sharma & Sons . Applicants.

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P R E S E N T

THE HON'BLE SRI G.L.SANGLYINE, MEMBER (ADMIN.)

For the Applicants Mr. B. K. Sharma, Mr. S. Sarma.

For the Respondents Mr. S. Ali, Sr. C. G. S. C.

DATE

## ORDER

14.10.96

Learned counsel Mr.B.K.Sharma for the applicants.

Mr. A. K. Chaudhari, Learned Addl. C. G. S. C. for the respondents.

Heard Mr. Sharma for admission. Prayer to allow the applicants to join together in this single application is granted in terms of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, as the conditions mentioned therein are fulfilled.

Perused the contents of the application and the reliefs sought. The application is admitted. Issue notice on the respondents by registered post.

List for written statement and further Orders  
on 26.11.96.

Heard Mr. Sharma on the interim relief prayer. The respondents are directed not to terminate the service of the applicants without permission of this Tribunal.

SD/MEMBER

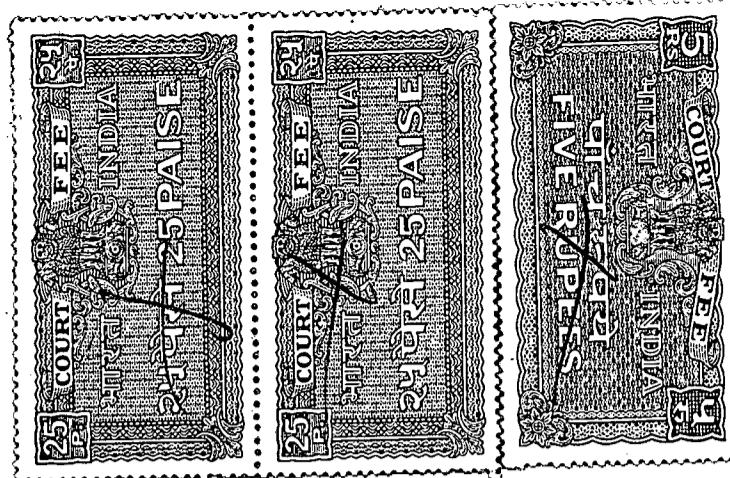
Memo No:- 3500 Dt. 15/10/96

Copy for information and necessary action to:-

- 1) The Secretary, Govt. of India, Ministry of Water Resources, Sharam Shakti Bhawan, New Delhi.
- 2) The Chairman, Central Water Commission, R.K.Puram, Seva Bhawan New Delhi.
- 3) The Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Guwahati-7, Rajgarh Road.
- 4) The Executive Engineer, Central Water Commission, M.O.T. Sub-Division, Barunimaidan, Guwahati-21.
- 5) Sri P.C. Sarma, Applicant by hand.
- 6) Mr. A.K. Chaudhuri, Addl. C.G.S. *Parmita*

McLennan  
TS 10/96  
SECTION OFFICER (S)

Dist.



## VAKALATNAMA IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,  
MIZORAM, AND ARUNACHAL PRADESH)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH  
IN THE COURT OF....., AT THE GUWAHATI

OA. NO. 252 OF 1996

Sri Dipak Dey & Ors.

Applicant/Appealant  
Plaintiff/Petitioner

VERSUS  
Union of India & Ors.

Respondent

Defendant/Opposite Party

Know all men by these presents that the above named Applicant  
do hereby nominate, constitute and appoint Sri B. K. Sharma, B. Mehta,  
S. Sarma Advocate

and such of the undermentioned Advocates as shall accept Vakalatnama to be my/our true and lawful Advocates to appear and act for me/us in the matter noted above and in connection herewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filling in or taking out papers, deeds of composition, etc. for me/us and my/our behalf and I/We agree to ratify and confirm all acts so done by the said advocates as mine/ours to all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In witnesses whereof I/We hereunto set my/our hand this 30<sup>th</sup> day of October, 1996.

D. N. Choudhury  
P. K. Goswami  
P. C. Deka  
J. M. Choudhury  
A. K. Bhattacharyya  
B. K. Sharma

L. Talukdar  
P. K. Tiwari  
M. K. Choudhury  
B. M. Sarma  
Ashok Roy  
Satyen Sarma

G. K. Thakuria,  
Satyajeet Sarm  
Rupjyoti Bardaloi  
Di S. Bhattacharyya  
Bishnu Mehta  
Siddhartha Sarma.

Sri ..... Senior Advocate, leads me / us in this case.

Received from the executant,  
satisfied and accepted.

Advocate

*(Signature Accepted)*  
(G. K. Thakuria)  
Accepted  
B. Mehta  
Advocate

Accepted

Advocate

(B. K. Sharma)

5. Md. Serebuddin Bonalokar  
Choudhury  
S/

- 6. Sri - Ajay Kumar Das.
- 7. Sri Seba Chondru Sinha
- 8. Ziauddin Nazamuddin
- 9. Nikhil Ch. Roy
- 10. Nurul Amin Barakhuja
- 11. Smt. Birendra K. Sinha
- 12. Sri Pratik Roy
- 13. Manju Kumar Das
- 14. Sambhu Roy

Dist.

*Suodhika Dasy 4/2*

**VAKALATNAMA  
IN THE GAUHATI HIGH COURT**

( THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,  
MIZORAM, AND ARUNACHAL PRADESH )

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH  
IN THE COURT OF ..... AT THE GUWAHATI

NO. .... OF 199

	<b>Applicant/Appellant</b>
VERSUS	<b>Plaintiff/Petitioner</b>
	<b>Respondent</b>
	<b>Defendant/Opposite Party</b>

Know all men by these presents that the above named .....  
do hereby nominate, constitute and appoint Sri .....

Advocate

and such of the undermentioned Advocates as shall accept Vakalatnama to be my/our true and lawful Advocates to appear and act for me/us in the matter noted above and in connection herewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filling in or taking out papers, deeds of composition, etc. for me/us and my/our behalf and I/We agree to ratify and confirm all acts so done by the said advocates as mine/ours to all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In witnesses whereof I/We hereunto set my/our hand this ..... day of ..... 199

D. N. Choudhury	L. Talukdar	Satyajeet Sarm
P. K. Goswami	P. K. Tiwari	Rupjyoti Bardaloi
P. C. Deka	M. K. Choudhury	D. S. Bhattacharyya
J. M. Choudhury	B. M. Sarma	Bishnu Mehta
A. K. Bhattacharyya	Ashok Roy	Siddhartha Sarma.
B. K. Sharma	Satyen Sarma	

Sri ..... Senior Advocate, leads me / us in this case

Received from the executant,  
satisfied and accepted.

Accepted

Accepted

Advocate

Advocate

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GAUHATI BENCH AT GUHATI

In the matter of

O.A. No.252 of 1996

Sh. Dipak Dey and others -- Applicants  
Vs

Union of India and Ors.-- Respondents

Written statement on behalf of  
Respondants

The humble Respondents submit their  
written statements as follows:-

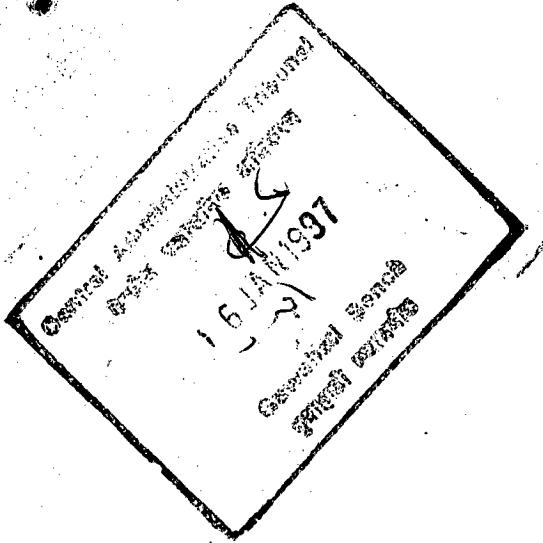
para-1 That the averments made in para-I are not admitted, as stated. It is respectfully submitted that the applicants/petitioners, were engaged as Seasonal Khalasis for the limited period i.e. from 15th May to 31st October with certain terms and conditions. ~~A copy of each appointment orders is annexed here-with and marked as Annexure-I.~~ The petitioners accepted their offers with the terms and conditions exhibited in the appointment orders. Accordingly they joined their duties as Seasonal Khalasis for the aforesaid period. Since there is no vacant post lying in the office of respondents No.344, therefore, their services can not be regularised.

Para-2 Para 2 requires no reply.

Para-3 Contents of para 3 are not denied.

Para-4.1 Contents of para 4.1 and 4.2 require no reply.  
and 4.2 However it is denied that the applicants are holder of Group 'D' post, as alleged.

Para-4.3 That the averments made in para 4.3 are not admitted as stated. It is submitted that the applicants/petitioners were appointed each time for a limited period only, with certain terms and conditions and after expiry of the period of appointment orders, the petitioners cannot claim as a right for their regularisation of their services. The last offer of the petitioners for the post of Seasonal Khalasis issued by the respondent vide order No.MD/SIL/Seasonal-96/Camp SHG/02-48 dated 28-05-96 & order No.MID/Sil/1/011/30/95/ Vol-I/96/1925-49 dated 25/05/96 as narrated above at annexure-I. Thus the engagement of the applicants stand expired on 31-10-96. Hence the claims of the applicants, that they are entitled to temporary status is absolutely baseless. It



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Central Admin. Trib.  
Guahati Bench, Guahati  
13/1/97  
Standing Comm.  
Central Admin. Trib.  
Guahati Bench, Guahati

is stated that 1993 scheme is not applicable in the facts and circumstances of the present case. 34

Para-4.4 That the averments made in para 4.4 are not admitted. It is stated that the petitioners were given temporary offer of Seasonal Khalasis, but not casual Khalasis, as alleged. It had also been mentioned in their appointment order that their services can be terminated without assigning any reasons thereof. This temporary appointment will not carry any right for permanent employment. It is stated that the applicants have never been appointed to Group 'D' posts. It is further submitted that 1993 scheme is not applicable in the facts and circumstances of the present case.

Para-4.5 That the averments made in para 4.5 are wrong and denied. It is respectfully stated that the petitioners are not holding any post continuously from the year 1988 in the respondents department. The petitioners were given temporary appointment each time for the limited period as is evident from the appointment orders already submitted as per annexure-I. It is also stated that the petitioners did not work beyond the prescribed period as Seasonal Khalasi. As such the petitioners cannot claim as a matter of their right for regularisation of their services in the respondent department. It is also denied that during the intervening period, they were given casual employment, as alleged.

Para-4.6 That the averments made in para 4.6 are wrong and denied. It is stated that the petitioners were given temporary appointment as Seasonal Khalasis each time for a limited period. As such the petitioners cannot claim as a matter of their right for regularisation of their services. It is also stated that the petitioners did not work beyond the prescribed period as Seasonal Khalasis.

Para-4.7 That the averments made in para 4.7 are wrong and denied. It is submitted that there is no scheme formulated for retention and regularisation of Seasonal Khalasis. Their cases for regularisation shall only be considered as and when vacancies in Workcharged Estt. arise. There is no post of Khalasi lying vacant in the respondent department, as stated above. It is respectfully submitted that the judgement of this Hon'ble Tribunal, Principal Bench, as referred, is not applicable in the facts and circumstances of the present case. It is further stated that 1993 scheme is not applicable.

Para-4.8 Para 4.8 requires no reply.

Para-4.9 That the averments made in para 4.9 are wrong and denied. It is submitted that no applicant has been transferred to Shillong who has been continuing as Group 'D' employee with temporary status with all benefits, as alleged. It is also stated that each time the offer of appointment in the respondent department given to the petitioners by the competent authority from time to time and simultaneously accepted by them. Thus the claim of the petitioners for regularisation in services on the post of Khalasis in the respondent department is absolutely false & baseless. The petitioners are eligible for regularisation only if a regular post of Workcharged Khalasi available under the Meghna Circle and <sup>as</sup> such their services cannot be regularised. Hence there is no question of regularisation of the petitioners. It is respectfully submitted that the judgement referred herein pertains to those who have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians on ad-hoc and not to the Seasonal Khalasis engaged in workcharged establishments who works for a limited period of a specific work & as such the said judgement is distinguishable.

Para-4.10 That with regards to statement made in para 4.10 of the application, the Respondents beg to state that as per nature of job the Seasonal Khalasis are engaged during monsoon period i.e. upto 31st October every year for the purpose of flood forecasting, <sup>hourly gau</sup> <sub>observa</sub>

- After 31st October there is absolutely no work of flood forecasting. All the applicants are well aware of this fact that after 31st October they will be disengaged, they have accepted the job being fully aware of this fact. The allegation regarding alleged exploitation by the Respondents, therefore, is no correct. All the applicants are free to choose any other job suitable to them.

Para-4.11 That with regards to statements made in paragraphs 4.11 of the applications, the Respondents beg to state that the judgement referred in the paragraph was specifically meant for the employees who have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians on adhoc

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basis and not to the Seasonal Khalasis engaged on Workcharged establishment for a specific purposes and for specific period. As such the said judgement is not applicable in the facts and circumstances of the present case.

Para-4.12 Contents of para 4.12 are wrong and denied. It is denied that the respondents have acted illegally, as alleged. It is further denied that they have acted in direct confrontation with the Hon'ble Tribunals Order, as alleged. It is stated that the respondents have the highest regard for the majority of the Hon'ble Tribunals.

Para-4.13 Since there is no para 4.13 to 4.15 no reply is offered.

Para-4.16 & 4.17 That with regard to statement made in para 4.16 to 4.17 of the application, the Respondents beg to state that interim order passed by the Hon'ble Tribunal has already been modified. The respondents further beg to state that the scheme for grant of temporary status and regularisation of services of Seasonal Khalasis has already been drafted by C.W.C. and Ministry of Water Resources. It is stated that at present the scheme is being circulated to the concerned Ministries and Departments for their comments/observation within a fixed time frame and immediately thereof the cabinet approval would be sought as per transaction of business x rules. The entire process of decision making is likely to be completed in about four months time.

Para-5.1 to 5.8 Contents from para 5.1 to 5.8 are wrong and denied. It is respectfully submitted that the petitioners employed as Seasonal Khalasis for a limited period with certains terms and conditions. It is stated that the nature of work of the said post is required only for a particular season and shall be terminated as and when the requirement is over as there is no vacant post of regular Khalasi. Moreover, the petitioners have already accepted the terms and conditions putforth in their appointment orders. As such the petitioners cannot be regularised.

It is further stated the petitioners have not been engaged against the regular nature of work, on the contrary, the petitioners were engaged against a temporary nature of work which shall be expired as and when the season in question is completed. It is further submitted that no benefit of the scheme of regularisation with temporary status have been extended to other similar situated employees. As stated above that there is no post of regular Khasasi in the Meghna Circle. So the question of regularisation of the services of the petitioners does not arise. Their cases for regularisation shall only be considered as and when vacancy arises and as per the seniority list maintained in the Meghna Circle. It is denied that the 1993 scheme is applicable to the applicants. It is further denied that the judgement, as cited, is applicable in the facts & circumstances of the present case. The allegations of violation of articles 14 & 16 of the constitution of India are also denied.

Para-6 Para 6 requires no reply.

Para-7 Contents of para 7 are denied for want of knowledge.

Para-8 In view of the facts and circumstances stated hereinabove, the applicants are not entitled to of the relief sought for, and as such application is liable to be dismissed.

Para-9 Para 9 requires no reply.

Para-10 to 12 Paras 10 to 12 require no reply.

#### V e r i f i c a t i o n

I, N.C. Nanda, Assistant Engineer, Meghna Investigation Division, Motinagar, Shillong, C.W.C. and Respondent No.3 & 4 do hereby solemnly declare that the statement made above are true and I sign this verification on this 13th day of January 1997.

N.C. Nanda  
Assistant Engineer 1997  
Meghna Inv. Division,  
DECLARANT  
Central Water Commission  
Shillong-16.